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7 UNITED STATES DISTRICT COURT  
8 WESTERN DISTRICT OF WASHINGTON  
9 AT SEATTLE

10 MICHAEL W. HALL,

11 Plaintiff,

12 v.

13 CAROLYN COLVIN,

14 Defendant.

CASE NO. C13-1679JLR

ORDER ADOPTING REPORT  
AND RECOMMENDATION

15  
16 **I. INTRODUCTION**

17 This matter comes before the court on the Report and Recommendation (“R&R”)  
18 of United States Magistrate Judge John L. Weinberg (R&R (Dkt. # 17)), and Plaintiff  
19 Michael Hall’s objections thereto (Objections (Dkt. # 18)). Having carefully reviewed all  
20 of the foregoing, along with all other relevant documents and the governing law, the court  
21 ADOPTS the Report and Recommendation (Dkt. # 17), AFFIRMS the decision of the  
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1 Administrative Law Judge (“ALJ”), and DISMISSES Mr. Hall’s complaint with  
2 prejudice.

## 3 II. BACKGROUND

4 Mr. Hall is a 40-year-old male who applied for and was denied social security  
5 benefits. (R&R at 1-2.) He suffers from lower back injury, depression, bipolar disorder,  
6 anxiety, and anger, and has had at least one stroke. (*Id.* at 1.) He has not worked since  
7 2008, but his previous work experience includes working as a derrick on an oil rig and a  
8 cook. (*Id.*) He has a GED. (*Id.*) He alleges that he has been disabled since 2007. (*Id.*)  
9 His initial application for social security benefits was denied. (*Id.* at 1-2.) In 2011, he  
10 had a hearing before an ALJ to determine if he was disabled. (*Id.* at 2.) The ALJ  
11 determined that he was not disabled and therefore not entitled to social security benefits.  
12 (*Id.* (citing Administrative Record (“AR”) at 11-25).) The ALJ explained his decision in  
13 a 15-page written opinion that details the ALJ’s reasoning. (AR at 11-25.) Mr. Hall  
14 appealed, but the Appeals Council affirmed the ALJ. (*Id.*) Mr. Hall then appealed to this  
15 court. Magistrate Judge Weinberg issued a comprehensive, 15-page R&R recommending  
16 that the commissioner be affirmed, and Mr. Hall objected to that R&R.

## 17 II. STANDARD OF REVIEW

18 A district court has jurisdiction to review a Magistrate Judge’s R&R on dispositive  
19 matters. Fed. R. Civ. P. 72(b). “The district judge must determine de novo any part of  
20 the magistrate judge’s disposition that has been properly objected to.” *Id.* “A judge of  
21 the court may accept, reject, or modify, in whole or in part, the findings or  
22 recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). The court

1 reviews de novo those portions of the R&R to which specific written objection is made.  
 2 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc). “The  
 3 statute makes it clear that the district judge must review the magistrate judge’s findings  
 4 and recommendations de novo if objection is made, but not otherwise.” *Id.* When no  
 5 objections are filed, the court need not review de novo the R&R. *Wang v. Masaitis*, 416  
 6 F.3d 992, 1000 n.13 (9th Cir. 2005).

7 Although review of an R&R is de novo, the court must defer to the ALJ’s factual  
 8 findings and may set aside the Commissioner’s denial of social security benefits only if  
 9 the ALJ’s findings are based on legal error or not supported by substantial evidence in the  
 10 record. 42 U.S.C. § 405(g); *Bayliss v. Barnhart*, 427 F.3d 1211, 1214 (9th Cir. 2005). In  
 11 this way, the court’s review of the R&R is different from the court’s review of the  
 12 underlying decision of the ALJ. With respect to the underlying decision, the court must  
 13 examine the record as a whole and may not reweigh the evidence or substitute its  
 14 judgment for that of the Commissioner. *Thomas v. Barnhart*, 278 F.3d 947, 954 (9th Cir.  
 15 2002). The ALJ determines credibility, resolves conflicts in medical testimony, and  
 16 resolves any other ambiguities that may exist. *Andrews v. Shalala*, 53 F.3d 1035, 1039  
 17 (9th Cir. 1995). When the evidence is susceptible to more than one rational  
 18 interpretation, the court must uphold the ALJ’s conclusion. *Thomas*, 278 F.3d at 954.

### 19 **III. DISCUSSION**

20 Mr. Hall raises two categories of objections. First, he objects to Magistrate Judge  
 21 Weinberg’s conclusion that the ALJ properly found Mr. Hall to be not credible.  
 22 (Objections at 1-6.) In doing so, he disputes many of the ALJ’s conclusions, citing

1 evidence from the hearing and suggesting that the ALJ drew the wrong conclusions from  
2 that evidence. (*Id.*) Second, he objects to the manner in which the ALJ weighed medical  
3 testimony. (*Id.* at 6-9.) He argues that the ALJ should have given certain medical  
4 testimony more weight than he did, and that he should have given other medical  
5 testimony less weight than he did. The court considers each of Mr. Hall's objections in  
6 turn.

7 **A. Credibility**

8 Magistrate Judge Weinberg's treatment of the credibility issue is thorough and  
9 correct. The court has examined the R&R in light of the record and concludes that  
10 Magistrate Judge Weinberg did not err in his consideration of this issue. As Magistrate  
11 Judge Weinberg points out, an ALJ's credibility findings must be supported by specific,  
12 cogent reasons. (R&R at 5 (citing *Greger v. Barnhart*, 464 F.3d 968, 972 (9th Cir.  
13 2006)).) Moreover, an ALJ must provide clear and convincing reasons for rejecting a  
14 claimant's testimony about the severity of his symptoms unless there is evidence of  
15 malingering. (*Id.* (citing *Lingenfelter v. Astrue*, 504 F.3d 1028, 1035-36 (9th Cir.  
16 2007)).) Here, as Magistrate Weinberg made clear, the ALJ undertook a "detailed  
17 assessment of Plaintiff's credibility by discussing medical reports, evidence of his daily  
18 activities and Plaintiff's own testimony." (*Id.* at 6.) Indeed, the ALJ listed eight separate  
19 reasons for finding Mr. Hall's testimony not credible.<sup>1</sup> (AR at 17-21.) The ALJ's

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22 <sup>1</sup> Magistrate Judge Weinberg found that one of these eight reasons was not valid but that  
any error with respect to this reason was harmless in light of the other seven reasons. (R&R at

1 reasons are specific, cogent, clear, and convincing. *See Greger*, 464 F.3d at 972;  
2 *Lingenfelter*, 504 F.3d at 1035-36. Accordingly, Magistrate Judge Weinberg did not err  
3 in recommending that the court affirm the ALJ.

4 Moreover, none of Mr. Hall's objections concerning credibility raise any new  
5 issues that are not adequately addressed in Magistrate Judge Weinberg's R&R. (*See*  
6 *Objections*.) For the most part, Mr. Hall's objections ask that the court re-weigh the  
7 evidence and reach a different conclusion than the ALJ. (*See id.* at 2-6.) This is not  
8 permitted. *Thomas*, 278 F.3d at 954. When the evidence is susceptible to more than one  
9 rational interpretation, the court must uphold the ALJ's conclusion. *Id.* Mr. Hall's  
10 objections also frequently suggest that the ALJ's conclusions were not supported by  
11 substantial evidence, but a review of the record demonstrates that this is not true. (*See*  
12 *Objections* at 2-6.) Instead, in raising his objections, Mr. Hall ignores the evidence that  
13 supported the ALJ's conclusions and argues that the court should pay attention to his  
14 evidence instead. (*See id.*) This is tantamount to re-weighing the evidence, and the court  
15 is not persuaded that this is warranted in this case. The court has independently reviewed  
16 the R&R and Mr. Hall's objections thereto in light of the record and adopts this portion  
17 of Magistrate Judge Weinberg's R&R for the same reasons discussed in the R&R.

#### 18 **B. Medical Testimony**

19 Next, Mr. Hall objects to Magistrate Judge Weinberg's treatment of three different  
20 medical opinions. As explained in more detail below, the court concludes that none of

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22 6.) The court agrees with Magistrate Judge Weinberg's assessment of this issue and adopts it in full herein.

1 Mr. Hall's objections raise issues that justify reversing the ALJ or otherwise disagreeing  
2 with the persuasive reasoning of Magistrate Judge Weinberg's R&R.

3 1. Mr. Arnold

4 Mr. Hall argues that the ALJ improperly gave substantial weight to a 2011 report  
5 by Greg Arnold, a mental health professional, and little weight to a 2010 report by Mr.  
6 Arnold. (Objections at 6-7.) Once again, the court notes that it may not reweigh the  
7 evidence or substitute its judgment for that of the Commissioner. *Thomas*, 278 F.3d at  
8 954. It is the job of the ALJ, not the court, to resolve conflicts in medical testimony.  
9 *Andrews*, 53 F.3d at 1039. When the evidence is susceptible to more than one rational  
10 interpretation, the court must uphold the ALJ's conclusion. *Thomas*, 278 F.3d at 954.  
11 Here, the court cannot conclude from its review of the record that Dr. Arnold's reports  
12 are susceptible to only one rational interpretation. In other words, the ALJ did not err in  
13 crediting one of the reports over the other.

14 The ALJ also supported his findings with sufficient reasons. The ALJ was  
15 required to provide "germane reasons" for discounting Mr. Arnold's testimony because  
16 Mr. Arnold is a so-called "other source" mental health professional. (R&R at 9 (citing  
17 *Turner v. Comm'r of Soc. Sec.*, 613 F.3d 1217, 1223 (9th Cir. 2010)).) In his written  
18 opinion, the ALJ provided at least five such reasons. (*Id.*) For example, he found that  
19 the 2010 opinion was inconsistent with treatment notes, was inconsistent with Plaintiff's  
20 activities, and relied too heavily on Mr. Hall's subjective complaints. (AR at 24.) As for  
21 the 2011 opinion, the ALJ found that it "more accurately reflects the longitudinal medical  
22 evidence and the claimant's activities." (*Id.*) These are all germane reasons, and the

1 court agrees with Magistrate Judge Weinberg that the ALJ's conclusions should be  
2 upheld. In choosing one report over the other, the ALJ did nothing more than his job.  
3 *See Andrews*, 53 F.3d at 1039.

4 2. Dr. Edwards

5 Mr. Hall next argues that the ALJ erred in rejecting certain opinions of Dr.  
6 Edwards. To reject this testimony, the ALJ was required to provide specific and  
7 legitimate reasons based on substantial evidence in the record. *Valentine v. Comm'r of*  
8 *Soc. Sec. Admin.*, 574 F.3d 685, 692 (9th Cir. 2009); (*see* R&R at 11.) The ALJ provided  
9 four separate reasons for rejecting Dr. Edwards' opinion, finding her opinion inconsistent  
10 with other medical evidence and too heavily reliant on Mr. Hall's subjective complaints,  
11 and finding that Dr. Edwards did not have an appropriate opportunity to observe Mr.  
12 Hall's symptoms. (AR at 23.) All of these reasons are specific, legitimate, and supported  
13 by substantial evidence in the record. *See Valentine*, 574 F.3d at 692. Moreover, none of  
14 Mr. Hall's objections raise any persuasive argument that convinces the court that the ALJ  
15 in any way erred by discounting Dr. Edwards' opinions or that Magistrate Judge  
16 Weinberg erred by upholding the ALJ's resolution of conflicting testimony.

17 3. Drs. Fisher and Fligstein

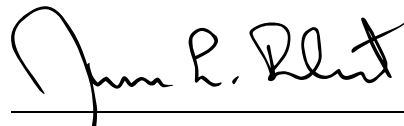
18 Last, Mr. Hall argues briefly that Magistrate Judge Weinberg "erred in upholding  
19 the ALJ's rejection of the opinions of Drs. Fisher and Fligstein." (Objections at 8.) The  
20 ALJ noted that he did "generally agree" with the opinions of these doctors, but that he  
21 disagreed that Mr. Hall needed "significant accommodations" in the workplace in order  
22 to succeed. (AR at 23.) The ALJ pointed to specific and substantial evidence supporting

1 his finding (*see id.*), but Mr. Hall suggests that the court overturn that finding in support  
2 of another inference that could be drawn from the available evidence (Objections at 8).  
3 This is not the court's role in reviewing the ALJ's opinion. *Thomas*, 278 F.3d at 954.  
4 Because the evidence before the ALJ was susceptible to more than one rational  
5 interpretation, the court must uphold the ALJ's conclusion. *Id.* Again, Mr. Hall has  
6 failed to demonstrate error by either the ALJ or Magistrate Judge Weinberg.

#### 7 **IV. CONCLUSION**

8 In sum, none of Mr. Hall's objections raise any novel issues that were not  
9 addressed by Magistrate Judge Weinberg's R&R. Moreover, the court has thoroughly  
10 examined the record before it and finds the Magistrate Judge's reasoning persuasive in  
11 light of that record. For these reasons, the court ADOPTS the Report and  
12 Recommendation (Dkt. # 17) in its entirety, AFFIRMS the decision of the ALJ,  
13 DISMISSES Mr. Hall's complaint with prejudice, and DIRECTS the Clerk to send copies  
14 of this Order to Mr. Hall, to counsel for respondent, and to Magistrate Judge Weinberg.

15 Dated this 21st day of July, 2014.

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18 JAMES L. ROBART  
19 United States District Judge  
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